

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CWP No.3748 of 2005

Date of Decision: 23.11.2006.

Samuel and another Petitioners

Versus

State of Punjab and others Respondents

**CORAM:- HON'BLE MR.JUSTICE J. S. KHEHAR
HON'BLE MR.JUSTICE S. D. ANAND**

Present: Ms.Upasana Gupta, Advocate
for the petitioners.

Mr.BS Chahal, AAG Punjab for the respondents.

J.S.KHEHAR, J.(Oral)

This Court passed the following order on 21.11.2006:

“A sum of Rs.16,647/- was sought to be deducted from each of the petitioners, consequent upon the communication addressed by the Civil Surgeon, Ludhiana, to the Senior Medical Officer Incharge, Civil Hospital, Ludhiana, bearing Endorsement No.Steno/CC/04/4083-86 dated 16.11.2004 (Annexure P-8).

When notice of motion was issued on 7.3.2005, learned counsel for the petitioners had invited the Court's attention to the order passed by the Punjab State Human Rights Commission dated 28.7.2004, wherein, it had been asserted,

that action would be taken against the petitioners, only after an appropriate enquiry was conducted against them, by the department. Learned counsel for the respondents, has invited our attention to Annexure R-2, appended to the joint written statement filed by respondents No.1 to 5, so as to substantiate, that an enquiry was factually conducted by the department.

Before we can arrive at any conclusion, whether or not the enquiry conducted against the petitioners, was within the parameters of rules of natural justice, it would be imperative to find out, whether or not notices were issued to the petitioners, depicting the reasons for effecting recovery from them.

Learned counsel for the respondents seeks an adjournment so as to enable him to verify the aforesaid factual position.

Adjourned to 23.11.2006.

Be shown in the urgent list.”

Learned counsel for the respondents, on instructions from Dr.Puneet Juneja, Medical Officer in the Office of Civil Surgeon, Ludhiana, states that two fact - finding enquiries were conducted. In the first fact-finding enquiry, witnesses were summoned, but the petitioners were not summoned. In so far as the second fact-finding enquiry is concerned, it is submitted that the petitioners were summoned and their statements were recorded. It is, however, acknowledged by the learned counsel for the respondents that in the second fact-finding enquiry, although the petitioners were summoned, they were ever permitted to cross-examine the witnesses produced in the first fact-finding enquiry.

In view of the factual position admitted by the respondents as have been detailed in the foregoing paragraph, we are satisfied that the rules of natural justice were not followed when the order dated 16.11.2004 (Annexure P8) was passed, which had adverse consequences qua the petitioners. We are, therefore, satisfied that the impugned order dated 16.11.2004 (Annexure P8) deserves to be set aside. Hence, the same stands set aside.

Liberty is granted to the respondents, if they be so advised to re-initiate the same action, however, before any action is taken against the petitioners, the rules of natural justice be followed.

Disposed of accordingly.

Needless to mention that the respondents ought to have released the salary of the petitioners consequent upon the passing of the interim order dated 7.3.2005. In case the same has not been released, the same shall be calculated and released to the petitioners within one month from today.

(J. S. KHEHAR)
JUDGE

(S. D. ANAND)
JUDGE

November 23, 2006

SRM